

Application No. 10/695,627
Reply to Office Action dated 03/09/2005

REMARKS

The foregoing amendments and these remarks are responsive to the Office Action mailed March 9, 2005 in connection with the above-identified application.

Double Patenting Rejection

Claims 1-9, 12-13, 16, and 18-23 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9, 11-13, 20-22, 24-26 of Applicant's U.S. Patent No. 6,560,543 (Wolfe). Claims 10-11, 14-15, and 17 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9, 11-13, 20, 22, 24-26 of U.S. Patent No. 6,560,543 in view of Applicant's U.S. Patent No. 6,332,110 (Wolfe).

A timely filed Terminal Disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome a rejection based on nonstatutory double patenting provided the conflicting application or patent is shown to be commonly owned with the present application. Accordingly, the Applicant submits herewith a Terminal Disclaimer to Overcome a Double Patenting Rejection over a Prior Patent for U.S. Patent No. 6,560,543. The present application is owned by Watereye, Inc., and U.S. Patent No. 6,560,543 is owned by and is assigned to Watereye, Inc.

The Applicant submits that the Terminal Disclaimer filed herewith is sufficient to overcome the rejection of claims 1-9, 12-13, 16, and 18-23 over U.S. Patent No. 6,560,543. The double-patenting rejection of Applicant's claims 10-11, 14-15, and 17 over U.S. Patent No. 6,560,543 in view of U.S. Patent No. 6,332,110 is considered moot in view of the Terminal Disclaimer filed herewith of U.S. Patent No. 6,560,543. The Applicant submits that the

Application No. 10/695,627
Reply to Office Action dated 03/09/2005

Terminal Disclaimer of U.S. Patent No. 6,560,543 is sufficient to overcome the rejection of claims 10-11, 14-15, and 17.

The Terminal Disclaimer filed herewith is in compliance with 37 CFR 1.321(c), and the Applicant therefore respectfully requests withdrawal of the rejections of claims 1-23 under the judicially created doctrine of obviousness-type double patenting.

Objection to the Specification

The disclosure is objected to because of a typographical error in the specification, namely "6,332,180" in the cross-reference to related applications should correctly read "--6,332,110--". In the foregoing amendment, the Applicant has corrected the error. Withdrawal of the rejection to the disclosure is respectfully requested.

Conclusion

The Applicant respectfully submits that the application now stands in condition for allowance. The Examiner is requested to telephone the undersigned in order to discuss any further objections, allowing Applicant to expedite a response.

Respectfully submitted,

MCHALE & SLAVIN, P.A.

4/29/05
Date


Leah C. Saar
Reg. No. 54,417

McHale & Slavin, P.A.
2855 PGA Blvd.
Palm Beach Gardens, FL 33410
(561) 625-6575 - VOICE
(561) 625-6572 - FAX